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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Liles et al. and Takamizawa et al.

While the instant claims are in product by process format, the Examiner notes that the final product claimed per se is an emulsion having a particle size range of .1 to 5 micron containing the components (i), (ii) and (iii) in the amounts as claimed in addition to a combination of two different non-ionic emulsifiers having a combined HLB of from 11 to 15. Since the process steps per se do not appear to lend any specific distinction to the final product, the Examiner will consider these claims simply as product claims.

Liu teaches a silicone resin emulsion which is prepared from an MQ resin meeting (iii) and a hydroxy terminated dimethylsiloxane meeting (ii) as claimed. For instance see column 2, lines 55 and on, and column 3, lines 30 to 33. This emulsion includes a combination of high and low HLB surfactants such that the total HLB of the two is between 11 and 15 (column 5, lines 59 to 62). The particle size range of the emulsion particles is between .1 and 5 micron (column 2, line 8). Thus this reference differs from that claimed only in that it does not teach the presence of an methylhydrogensiloxane (i) as claimed.

As is known in the art and demonstrated by both Liles et al. and Takamizawa et al., it is known in the art that methylhydrogensiloxanes provide treated substrates with water repellency. See for instance column 3, lines 40 and on, in Liles et al. and column 1, lines 17 and on, of Takamizawa et al. These references are both drawn to methylhydrogensiloxane emulsions that are used to provide water repellency to a substrate.

The composition in Liu can be used as a coating composition to provide water resistance (bottom of column 6). Thus one having ordinary skill in the art would have

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been motivated by that which is known in the art, as shown by Takamizawa et al. and Liles et al., to include a methylhydrogensiloxane in the silicone emulsion of Liu in an effort to improve the water repellency of the treated substrate thereof. Adjusting the amount of methylhydrogensiloxane such that water repellency properties are obtained would have been well within the skill of the ordinary artisan.

In this manner the emulsion and method claimed are rendered obvious by the prior art.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday and Wednesday to Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Margaret G. Moore/  
Primary Examiner, Art Unit 1796

mgm  
10/22/08